



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB6220

Introduced 2/11/2016, by Rep. David Harris

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act to create the Sales and Excise Tax Refund Fund. Provides that moneys in the Fund shall be used by the Department of Revenue to pay refunds under various tax Acts. Provides that 0.18% of 80% of the net revenue realized from the 6.25% general rate on the selling price of tangible personal property under the Use Tax Act and the Retailers' Occupation Tax Act and the 6.25% general rate on transfers of tangible personal property under the Service Use Tax Act and the Service Occupation Tax Act shall be transferred from the General Revenue Fund to the Sales and Excise Tax Refund. Provides for a continuing appropriation from the Sales and Excise Tax Refund Fund. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, the Cigarette Machine Operators' Occupation Tax Act, the Cigarette Tax Act, the Cigarette Use Tax Act, the Coin-Operated Amusement Device and Redemption Machine Tax Act, the Messages Tax Act, the Gas Revenue Tax Act, the Public Utilities Revenue Act, the Water Company Invested Capital Tax Act, the Telecommunications Excise Tax Act, and the Liquor Control Act of 1934 to provide that refunds shall be made under those Acts from the Sales and Excise Tax Refund Fund (instead of from appropriations made available for that purpose). Effective July 1, 2016.

LRB099 19739 HLH 44137 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding  
5 Sections 5.875 and 6z-101 as follows:

6 (30 ILCS 105/5.875 new)

7 Sec. 5.875. The Sales and Excise Tax Refund Fund.

8 (30 ILCS 105/6z-101 new)

9 Sec. 6z-101. The Sales and Excise Tax Refund Fund.

10 (a) The Sales and Excise Tax Refund Fund is hereby created  
11 as a special fund in the State Treasury. Moneys in the Fund  
12 shall be used by the Department of Revenue to pay refunds as  
13 provided in Section 19 of the Use Tax Act, Section 17 of the  
14 Service Use Tax Act, Section 17 of the Service Occupation Tax  
15 Act, Section 6 of the Retailers' Occupation Tax Act, Section  
16 1-55 of the Cigarette Machine Operators' Occupation Tax Act,  
17 Section 9d of the Cigarette Tax Act, Section 14a of the  
18 Cigarette Use Tax Act, Section 2 of the Coin-Operated Amusement  
19 Device and Redemption Machine Tax Act, Section 6 of the  
20 Messages Tax Act, Section 6 of the Gas Revenue Tax Act, Section  
21 6 of the Public Utilities Revenue Act, Section 6 of the Water  
22 Company Invested Capital Tax Act, Section 10 of the

1 Telecommunications Excise Tax Act, Section 8-3 of the Liquor  
2 Control Act, and any other Act that authorizes, directly or by  
3 incorporation of provisions of another Act, payment of refunds  
4 out of the Fund, as well as to pay to the State Treasurer the  
5 amount of any unused credit memorandums or returned refund  
6 checks under the Acts covered by this Section that qualify as  
7 unclaimed property under the Uniform Disposition of Unclaimed  
8 Property Act.

9 (b) As soon as possible after the first day of each month,  
10 beginning July 1, 2016, upon certification of the Department of  
11 Revenue, the State Comptroller shall order transferred and the  
12 State Treasurer shall transfer from the General Revenue Fund to  
13 the Sales and Excise Tax Refund Fund an amount equal to 0.18%  
14 of 80% of the net revenue realized, as that term is defined in  
15 Section 3 of the Retailers' Occupation Tax Act, for the  
16 preceding month from the 6.25% general rate on the selling  
17 price of tangible personal property under the Use Tax Act and  
18 the Retailers' Occupation Tax Act, and the 6.25% general rate  
19 on transfers of tangible personal property under the Service  
20 Use Tax Act and the Service Occupation Tax Act.

21 (c) The Director of Revenue shall order payment of refunds  
22 under this Section from the Sales and Excise Tax Refund Fund  
23 only to the extent that amounts required to be transferred into  
24 the Fund from the General Revenue Fund under this Section have  
25 been transferred into and retained in the Fund.

26 As soon as possible after the end of each fiscal year, the

1 Director of Revenue shall order transferred and the State  
2 Treasurer and State Comptroller shall transfer from the Sales  
3 and Excise Tax Refund Fund to the General Revenue Fund any  
4 surplus remaining in the Sales and Excise Tax Refund Fund as  
5 determined by the Department of Revenue as of the end of such  
6 fiscal year.

7 (d) Moneys in the Sales and Excise Tax Refund Fund shall be  
8 expended exclusively for the purpose of paying refunds, paying  
9 unclaimed property, and making transfers, all pursuant to this  
10 Section.

11 (e) This Section shall constitute an irrevocable and  
12 continuing appropriation from the Sales and Excise Tax Refund  
13 Fund for the purpose of paying refunds and unclaimed property  
14 upon the order of the Director of Revenue in accordance with  
15 the provisions of this Section.

16 Section 10. The Use Tax Act is amended by changing Section  
17 19 as follows:

18 (35 ILCS 105/19) (from Ch. 120, par. 439.19)

19 Sec. 19. If it shall appear that an amount of tax or  
20 penalty or interest has been paid in error hereunder to the  
21 Department by a purchaser, as distinguished from the retailer,  
22 whether such amount be paid through a mistake of fact or an  
23 error of law, such purchaser may file a claim for credit or  
24 refund with the Department in accordance with Sections 6, 6a,

1 6b, 6c, and 6d of the Retailers' Occupation Tax Act. If it  
2 shall appear that an amount of tax or penalty or interest has  
3 been paid in error to the Department hereunder by a retailer  
4 who is required or authorized to collect and remit the use tax,  
5 whether such amount be paid through a mistake of fact or an  
6 error of law, such retailer may file a claim for credit or  
7 refund with the Department in accordance with Sections 6, 6a,  
8 6b, 6c, and 6d of the Retailers' Occupation Tax Act, provided  
9 that no credit or refund shall be allowed for any amount paid  
10 by any such retailer unless it shall appear that he bore the  
11 burden of such amount and did not shift the burden thereof to  
12 anyone else (as in the case of a duplicated tax payment which  
13 the retailer made to the Department and did not collect from  
14 anyone else), or unless it shall appear that he or she or his  
15 or her legal representative has unconditionally repaid such  
16 amount to his vendee (1) who bore the burden thereof and has  
17 not shifted such burden directly or indirectly in any manner  
18 whatsoever; (2) who, if he has shifted such burden, has repaid  
19 unconditionally such amount to his or her own vendee, and (3)  
20 who is not entitled to receive any reimbursement therefor from  
21 any other source than from his vendor, nor to be relieved of  
22 such burden in any other manner whatsoever. If it shall appear  
23 that an amount of tax has been paid in error hereunder by the  
24 purchaser to a retailer, who retained such tax as reimbursement  
25 for his or her tax liability on the same sale under the  
26 Retailers' Occupation Tax Act, and who remitted the amount

1 involved to the Department under the Retailers' Occupation Tax  
2 Act, whether such amount be paid through a mistake of fact or  
3 an error of law, the procedure for recovering such tax shall be  
4 that prescribed in Sections 6, 6a, 6b and 6c of the Retailers'  
5 Occupation Tax Act.

6 Any credit or refund that is allowed under this Section  
7 shall bear interest at the rate and in the manner specified in  
8 the Uniform Penalty and Interest Act.

9 Any claim filed hereunder shall be filed upon a form  
10 prescribed and furnished by the Department. The claim shall be  
11 signed by the claimant (or by the claimant's legal  
12 representative if the claimant shall have died or become a  
13 person under legal disability), or by a duly authorized agent  
14 of the claimant or his or her legal representative.

15 A claim for credit or refund shall be considered to have  
16 been filed with the Department on the date upon which it is  
17 received by the Department. Upon receipt of any claim for  
18 credit or refund filed under this Act, any officer or employee  
19 of the Department, authorized in writing by the Director of  
20 Revenue to acknowledge receipt of such claims on behalf of the  
21 Department, shall execute on behalf of the Department, and  
22 shall deliver or mail to the claimant or his duly authorized  
23 agent, a written receipt, acknowledging that the claim has been  
24 filed with the Department, describing the claim in sufficient  
25 detail to identify it and stating the date upon which the claim  
26 was received by the Department. Such written receipt shall be

1 prima facie evidence that the Department received the claim  
2 described in such receipt and shall be prima facie evidence of  
3 the date when such claim was received by the Department. In the  
4 absence of such a written receipt, the records of the  
5 Department as to when the claim was received by the Department,  
6 or as to whether or not the claim was received at all by the  
7 Department, shall be deemed to be prima facie correct upon  
8 these questions in the event of any dispute between the  
9 claimant (or his or her legal representative) and the  
10 Department concerning these questions.

11 In case the Department determines that the claimant is  
12 entitled to a refund, such refund shall be made only from the  
13 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
14 available for that purpose. If it appears unlikely that the  
15 amount available ~~appropriated~~ would permit everyone having a  
16 claim allowed ~~during the period covered by such appropriation~~  
17 to elect to receive a cash refund, the Department, by rule or  
18 regulation, shall provide for the payment of refunds in  
19 hardship cases and shall define what types of cases qualify as  
20 hardship cases.

21 If a retailer who has failed to pay use tax on gross  
22 receipts from retail sales is required by the Department to pay  
23 such tax, such retailer, without filing any formal claim with  
24 the Department, shall be allowed to take credit against such  
25 use tax liability to the extent, if any, to which such retailer  
26 has paid an amount equivalent to retailers' occupation tax or

1 has paid use tax in error to his or her vendor or vendors of the  
2 same tangible personal property which such retailer bought for  
3 resale and did not first use before selling it, and no penalty  
4 or interest shall be charged to such retailer on the amount of  
5 such credit. However, when such credit is allowed to the  
6 retailer by the Department, the vendor is precluded from  
7 refunding any of that tax to the retailer and filing a claim  
8 for credit or refund with respect thereto with the Department.  
9 The provisions of this amendatory Act shall be applied  
10 retroactively, regardless of the date of the transaction.  
11 (Source: P.A. 99-217, eff. 7-31-15.)

12 Section 15. The Service Use Tax Act is amended by changing  
13 Section 17 as follows:

14 (35 ILCS 110/17) (from Ch. 120, par. 439.47)

15 Sec. 17. If it shall appear that an amount of tax or  
16 penalty or interest has been paid in error hereunder to the  
17 Department by a purchaser, as distinguished from the  
18 serviceman, whether such amount be paid through a mistake of  
19 fact or an error of law, such purchaser may file a claim for  
20 credit or refund with the Department. If it shall appear that  
21 an amount of tax or penalty or interest has been paid in error  
22 to the Department hereunder by a serviceman who is required or  
23 authorized to collect and remit the Service Use Tax, whether  
24 such amount be paid through a mistake of fact or an error of

1 law, such serviceman may file a claim for credit or refund with  
2 the Department, provided that no credit shall be allowed or  
3 refund made for any amount paid by any such serviceman unless  
4 it shall appear that he bore the burden of such amount and did  
5 not shift the burden thereof to anyone else (as in the case of  
6 a duplicated tax payment which the serviceman made to the  
7 Department and did not collect from anyone else), or unless it  
8 shall appear that he or his legal representative has  
9 unconditionally repaid such amount to his vendee (1) who bore  
10 the burden thereof and has not shifted such burden directly or  
11 indirectly in any manner whatsoever; (2) who, if he has shifted  
12 such burden, has repaid unconditionally such amount to his own  
13 vendee, and (3) who is not entitled to receive any  
14 reimbursement therefor from any other source than from his  
15 vendor, nor to be relieved of such burden in any other manner  
16 whatsoever. If it shall appear that an amount of tax has been  
17 paid in error hereunder by the purchaser to a serviceman, who  
18 retained such tax as reimbursement for his tax liability on the  
19 same sale of service under the Service Occupation Tax Act, and  
20 who paid such tax as required by the Service Occupation Tax  
21 Act, whether such amount be paid through a mistake of fact or  
22 an error of law, the procedure for recovering such tax shall be  
23 that prescribed in Sections 17, 18, 19 and 20 of the Service  
24 Occupation Tax Act.

25 Any credit or refund that is allowed under this Section  
26 shall bear interest at the rate and in the manner specified in

1 the Uniform Penalty and Interest Act.

2 Any claim filed hereunder shall be filed upon a form  
3 prescribed and furnished by the Department. The claim shall be  
4 signed by the claimant (or by the claimant's legal  
5 representative if the claimant shall have died or become a  
6 person under legal disability), or by a duly authorized agent  
7 of the claimant or his or her legal representative.

8 A claim for credit or refund shall be considered to have  
9 been filed with the Department on the date upon which it is  
10 received by the Department. Upon receipt of any claim for  
11 credit or refund filed under this Act, any officer or employee  
12 of the Department, authorized in writing by the Director of  
13 Revenue to acknowledge receipt of such claims on behalf of the  
14 Department, shall execute on behalf of the Department, and  
15 shall deliver or mail to the claimant or his duly authorized  
16 agent, a written receipt, acknowledging that the claim has been  
17 filed with the Department, describing the claim in sufficient  
18 detail to identify it and stating the date upon which the claim  
19 was received by the Department. Such written receipt shall be  
20 prima facie evidence that the Department received the claim  
21 described in such receipt and shall be prima facie evidence of  
22 the date when such claim was received by the Department. In the  
23 absence of such a written receipt, the records of the  
24 Department as to when the claim was received by the Department,  
25 or as to whether or not the claim was received at all by the  
26 Department, shall be deemed to be prima facie correct upon

1 these questions in the event of any dispute between the  
2 claimant (or his or her legal representative) and the  
3 Department concerning these questions.

4 In case the Department determines that the claimant is  
5 entitled to a refund, such refund shall be made only from the  
6 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
7 available for that purpose. If it appears unlikely that the  
8 amount available ~~appropriated~~ would permit everyone having a  
9 claim allowed ~~during the period covered by such appropriation~~  
10 to elect to receive a cash refund, the Department, by rule or  
11 regulation, shall provide for the payment of refunds in  
12 hardship cases and shall define what types of cases qualify as  
13 hardship cases.

14 (Source: P.A. 87-205.)

15 Section 20. The Service Occupation Tax Act is amended by  
16 changing Section 17 as follows:

17 (35 ILCS 115/17) (from Ch. 120, par. 439.117)

18 Sec. 17. If it shall appear that an amount of tax or  
19 penalty or interest has been paid in error hereunder directly  
20 to the Department by a serviceman, whether such amount be paid  
21 through a mistake of fact or an error of law, such serviceman  
22 may file a claim for credit or refund with the Department. If  
23 it shall appear that an amount of tax or penalty or interest  
24 has been paid in error to the Department hereunder by a

1 supplier who is required or authorized to collect and remit the  
2 Service Occupation Tax, whether such amount be paid through a  
3 mistake of fact or an error of law, such supplier may file a  
4 claim for credit or refund with the Department, provided that  
5 no credit shall be allowed nor any refund made for any amount  
6 paid by any such supplier unless it shall appear that he bore  
7 the burden of such amount and did not shift the burden thereof  
8 to anyone else (as in the case of a duplicated tax payment  
9 which the supplier made to the Department and did not collect  
10 from anyone else), or unless it shall appear that he or his  
11 legal representative has unconditionally repaid such amount to  
12 his vendee (1) who bore the burden thereof and has not shifted  
13 such burden directly or indirectly in any manner whatsoever;  
14 (2) who, if he has shifted such burden, has repaid  
15 unconditionally such amount to his own vendee, and (3) who is  
16 not entitled to receive any reimbursement therefor from any  
17 other source than from his supplier, nor to be relieved of such  
18 burden in any other manner whatsoever.

19 Any credit or refund that is allowed under this Section  
20 shall bear interest at the rate and in the manner specified in  
21 the Uniform Penalty and Interest Act.

22 Any claim filed hereunder shall be filed upon a form  
23 prescribed and furnished by the Department. The claim shall be  
24 signed by the claimant (or by the claimant's legal  
25 representative if the claimant shall have died or become a  
26 person under legal disability), or by a duly authorized agent

1 of the claimant or his or her legal representative.

2 A claim for credit or refund shall be considered to have  
3 been filed with the Department on the date upon which it is  
4 received by the Department. Upon receipt of any claim for  
5 credit or refund filed under this Act, any officer or employee  
6 of the Department, authorized in writing by the Director of  
7 Revenue to acknowledge receipt of such claims on behalf of the  
8 Department, shall execute on behalf of the Department, and  
9 shall deliver or mail to the claimant or his or her duly  
10 authorized agent, a written receipt, acknowledging that the  
11 claim has been filed with the Department, describing the claim  
12 in sufficient detail to identify it and stating the date upon  
13 which the claim was received by the Department. Such written  
14 receipt shall be prima facie evidence that the Department  
15 received the claim described in such receipt and shall be prima  
16 facie evidence of the date when such claim was received by the  
17 Department. In the absence of such a written receipt, the  
18 records of the Department as to when the claim was received by  
19 the Department, or as to whether or not the claim was received  
20 at all by the Department, shall be deemed to be prima facie  
21 correct upon these questions in the event of any dispute  
22 between the claimant (or his legal representative) and the  
23 Department concerning these questions.

24 In case the Department determines that the claimant is  
25 entitled to a refund, such refund shall be made only from the  
26 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be

1 available for that purpose. If it appears unlikely that the  
2 amount available ~~appropriated~~ would permit everyone having a  
3 claim allowed ~~during the period covered by such appropriation~~  
4 to elect to receive a cash refund, the Department, by rule or  
5 regulation, shall provide for the payment of refunds in  
6 hardship cases and shall define what types of cases qualify as  
7 hardship cases.

8 (Source: P.A. 87-205.)

9 Section 25. The Retailers' Occupation Tax Act is amended by  
10 changing Section 6 as follows:

11 (35 ILCS 120/6) (from Ch. 120, par. 445)

12 Sec. 6. Credit memorandum or refund. If it appears, after  
13 claim therefor filed with the Department, that an amount of tax  
14 or penalty or interest has been paid which was not due under  
15 this Act, whether as the result of a mistake of fact or an  
16 error of law, except as hereinafter provided, then the  
17 Department shall issue a credit memorandum or refund to the  
18 person who made the erroneous payment or, if that person died  
19 or became a person under legal disability, to his or her legal  
20 representative, as such. For purposes of this Section, the tax  
21 is deemed to be erroneously paid by a retailer when the  
22 manufacturer of a motor vehicle sold by the retailer accepts  
23 the return of that automobile and refunds to the purchaser the  
24 selling price of that vehicle as provided in the New Vehicle

1 Buyer Protection Act. When a motor vehicle is returned for a  
2 refund of the purchase price under the New Vehicle Buyer  
3 Protection Act, the Department shall issue a credit memorandum  
4 or a refund for the amount of tax paid by the retailer under  
5 this Act attributable to the initial sale of that vehicle.  
6 Claims submitted by the retailer are subject to the same  
7 restrictions and procedures provided for in this Act. If it is  
8 determined that the Department should issue a credit memorandum  
9 or refund, the Department may first apply the amount thereof  
10 against any tax or penalty or interest due or to become due  
11 under this Act or under the Use Tax Act, the Service Occupation  
12 Tax Act, the Service Use Tax Act, any local occupation or use  
13 tax administered by the Department, Section 4 of the Water  
14 Commission Act of 1985, subsections (b), (c) and (d) of Section  
15 5.01 of the Local Mass Transit District Act, or subsections  
16 (e), (f) and (g) of Section 4.03 of the Regional Transportation  
17 Authority Act, from the person who made the erroneous payment.  
18 If no tax or penalty or interest is due and no proceeding is  
19 pending to determine whether such person is indebted to the  
20 Department for tax or penalty or interest, the credit  
21 memorandum or refund shall be issued to the claimant; or (in  
22 the case of a credit memorandum) the credit memorandum may be  
23 assigned and set over by the lawful holder thereof, subject to  
24 reasonable rules of the Department, to any other person who is  
25 subject to this Act, the Use Tax Act, the Service Occupation  
26 Tax Act, the Service Use Tax Act, any local occupation or use

1 tax administered by the Department, Section 4 of the Water  
2 Commission Act of 1985, subsections (b), (c) and (d) of Section  
3 5.01 of the Local Mass Transit District Act, or subsections  
4 (e), (f) and (g) of Section 4.03 of the Regional Transportation  
5 Authority Act, and the amount thereof applied by the Department  
6 against any tax or penalty or interest due or to become due  
7 under this Act or under the Use Tax Act, the Service Occupation  
8 Tax Act, the Service Use Tax Act, any local occupation or use  
9 tax administered by the Department, Section 4 of the Water  
10 Commission Act of 1985, subsections (b), (c) and (d) of Section  
11 5.01 of the Local Mass Transit District Act, or subsections  
12 (e), (f) and (g) of Section 4.03 of the Regional Transportation  
13 Authority Act, from such assignee. However, as to any claim for  
14 credit or refund filed with the Department on and after each  
15 January 1 and July 1 no amount of tax or penalty or interest  
16 erroneously paid (either in total or partial liquidation of a  
17 tax or penalty or amount of interest under this Act) more than  
18 3 years prior to such January 1 and July 1, respectively, shall  
19 be credited or refunded, except that if both the Department and  
20 the taxpayer have agreed to an extension of time to issue a  
21 notice of tax liability as provided in Section 4 of this Act,  
22 such claim may be filed at any time prior to the expiration of  
23 the period agreed upon.

24 No claim may be allowed for any amount paid to the  
25 Department, whether paid voluntarily or involuntarily, if paid  
26 in total or partial liquidation of an assessment which had

1 become final before the claim for credit or refund to recover  
2 the amount so paid is filed with the Department, or if paid in  
3 total or partial liquidation of a judgment or order of court.  
4 No credit may be allowed or refund made for any amount paid by  
5 or collected from any claimant unless it appears (a) that the  
6 claimant bore the burden of such amount and has not been  
7 relieved thereof nor reimbursed therefor and has not shifted  
8 such burden directly or indirectly through inclusion of such  
9 amount in the price of the tangible personal property sold by  
10 him or her or in any manner whatsoever; and that no  
11 understanding or agreement, written or oral, exists whereby he  
12 or she or his or her legal representative may be relieved of  
13 the burden of such amount, be reimbursed therefor or may shift  
14 the burden thereof; or (b) that he or she or his or her legal  
15 representative has repaid unconditionally such amount to his or  
16 her vendee (1) who bore the burden thereof and has not shifted  
17 such burden directly or indirectly, in any manner whatsoever;  
18 (2) who, if he or she has shifted such burden, has repaid  
19 unconditionally such amount to his own vendee; and (3) who is  
20 not entitled to receive any reimbursement therefor from any  
21 other source than from his or her vendor, nor to be relieved of  
22 such burden in any manner whatsoever. No credit may be allowed  
23 or refund made for any amount paid by or collected from any  
24 claimant unless it appears that the claimant has  
25 unconditionally repaid, to the purchaser, any amount collected  
26 from the purchaser and retained by the claimant with respect to

1 the same transaction under the Use Tax Act.

2 Any credit or refund that is allowed under this Section  
3 shall bear interest at the rate and in the manner specified in  
4 the Uniform Penalty and Interest Act.

5 In case the Department determines that the claimant is  
6 entitled to a refund, such refund shall be made only from the  
7 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
8 available for that purpose. If it appears unlikely that the  
9 amount available ~~appropriated~~ would permit everyone having a  
10 claim allowed ~~during the period covered by such appropriation~~  
11 to elect to receive a cash refund, the Department, by rule or  
12 regulation, shall provide for the payment of refunds in  
13 hardship cases and shall define what types of cases qualify as  
14 hardship cases.

15 If a retailer who has failed to pay retailers' occupation  
16 tax on gross receipts from retail sales is required by the  
17 Department to pay such tax, such retailer, without filing any  
18 formal claim with the Department, shall be allowed to take  
19 credit against such retailers' occupation tax liability to the  
20 extent, if any, to which such retailer has paid an amount  
21 equivalent to retailers' occupation tax or has paid use tax in  
22 error to his or her vendor or vendors of the same tangible  
23 personal property which such retailer bought for resale and did  
24 not first use before selling it, and no penalty or interest  
25 shall be charged to such retailer on the amount of such credit.  
26 However, when such credit is allowed to the retailer by the

1 Department, the vendor is precluded from refunding any of that  
2 tax to the retailer and filing a claim for credit or refund  
3 with respect thereto with the Department. The provisions of  
4 this amendatory Act shall be applied retroactively, regardless  
5 of the date of the transaction.

6 (Source: P.A. 91-901, eff. 1-1-01.)

7 Section 30. The Cigarette Machine Operators' Occupation  
8 Tax Act is amended by changing Section 1-55 as follows:

9 (35 ILCS 128/1-55)

10 Sec. 1-55. Claims; credit memorandum or refunds. If it  
11 appears, after claim is filed with the Department, that an  
12 amount of tax or penalty has been paid which was not due under  
13 this Act, whether as the result of a mistake of fact or an  
14 error of law, except as hereinafter provided, then the  
15 Department shall issue a credit memorandum or refund to the  
16 person who made the erroneous payment or, if that person has  
17 died or become a person under legal disability, to his or her  
18 legal representative.

19 If it is determined that the Department should issue a  
20 credit or refund under this Act, the Department may first apply  
21 the amount thereof against any amount of tax or penalty due  
22 under this Act, the Cigarette Tax Act, the Cigarette Use Tax  
23 Act, or the Tobacco Products Act of 1995 from the person  
24 entitled to that credit or refund. For this purpose, if

1 proceedings are pending to determine whether or not any tax or  
2 penalty is due under this Act or under the Cigarette Tax Act,  
3 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from  
4 the person, the Department may withhold issuance of the credit  
5 or refund pending the final disposition of such proceedings and  
6 may apply such credit or refund against any amount found to be  
7 due to the Department under this Act, the Cigarette Tax Act,  
8 the Cigarette Use Tax Act, or the Tobacco Products Act of 1995  
9 as a result of such proceedings. The balance, if any, of the  
10 credit or refund shall be issued to the person entitled  
11 thereto.

12 If no tax or penalty is due and no proceeding is pending to  
13 determine whether such taxpayer is indebted to the Department  
14 for the payment of a tax or penalty, the credit memorandum or  
15 refund shall be issued to the claimant; or (in the case of a  
16 credit memorandum) the credit memorandum may be assigned and  
17 set over by the lawful holder thereof, subject to reasonable  
18 rules of the Department, to any other person who is subject to  
19 this Act, the Cigarette Tax Act, the Cigarette Use Tax Act, or  
20 the Tobacco Products Act of 1995, and the amount thereof shall  
21 be applied by the Department against any tax or penalty due or  
22 to become due under this Act, the Cigarette Tax Act, the  
23 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from  
24 such assignee.

25 As to any claim filed hereunder with the Department on and  
26 after each January 1 and July 1, no amount of tax or penalty

1 erroneously paid (either in total or partial liquidation of a  
2 tax or penalty under this Act) more than 3 years prior to such  
3 January 1 and July 1, respectively, shall be credited or  
4 refunded, except that, if both the Department and the taxpayer  
5 have agreed to an extension of time to issue a notice of tax  
6 liability under this Act, the claim may be filed at any time  
7 prior to the expiration of the period agreed upon.

8 Any credit or refund that is allowed under this Act shall  
9 bear interest at the rate and in the manner set forth in the  
10 Uniform Penalty and Interest Act.

11 In case the Department determines that the claimant is  
12 entitled to a refund, such refund shall be made only from the  
13 Sales and Excise Tax Refund Fund as may be appropriations  
14 available for that purpose. If it appears unlikely that the  
15 amount available ~~appropriated~~ would permit everyone having a  
16 claim allowed ~~during the period covered by such appropriation~~  
17 to elect to receive a cash refund, the Department, by rule or  
18 regulation, shall provide for the payment of refunds in  
19 hardship cases and shall define what types of cases qualify as  
20 hardship cases.

21 The provisions of Sections 6a, 6b, and 6c of the Retailers'  
22 Occupation Tax Act which are not inconsistent with this Act  
23 shall apply, as far as practicable, to the subject matter of  
24 this Act to the same extent as if such provisions were included  
25 herein.

26 (Source: P.A. 97-688, eff. 6-14-12.)

1           Section 35. The Cigarette Tax Act is amended by changing  
2 Section 9d as follows:

3           (35 ILCS 130/9d) (from Ch. 120, par. 453.9d)

4           Sec. 9d. If it appears, after claim therefor filed with the  
5 Department, that an amount of tax or penalty has been paid  
6 which was not due under this Act, whether as the result of a  
7 mistake of fact or an error of law, except as hereinafter  
8 provided, then the Department shall issue a credit memorandum  
9 or refund to the person who made the erroneous payment or, if  
10 that person has died or become a person under legal disability,  
11 to his or her legal representative, as such.

12           If it is determined that the Department should issue a  
13 credit or refund under this Act, the Department may first apply  
14 the amount thereof against any amount of tax or penalty due  
15 under this Act or under the Cigarette Use Tax Act from the  
16 person entitled to such credit or refund. For this purpose, if  
17 proceedings are pending to determine whether or not any tax or  
18 penalty is due under this Act or under the Cigarette Use Tax  
19 Act from such person, the Department may withhold issuance of  
20 the credit or refund pending the final disposition of such  
21 proceedings and may apply such credit or refund against any  
22 amount found to be due to the Department under this Act or  
23 under the Cigarette Use Tax Act as a result of such  
24 proceedings. The balance, if any, of the credit or refund shall

1 be issued to the person entitled thereto.

2 If no tax or penalty is due and no proceeding is pending to  
3 determine whether such taxpayer is indebted to the Department  
4 for tax or penalty, the credit memorandum or refund shall be  
5 issued to the claimant; or (in the case of a credit memorandum)  
6 the credit memorandum may be assigned and set over by the  
7 lawful holder thereof, subject to reasonable rules of the  
8 Department, to any other person who is subject to this Act or  
9 the Cigarette Use Tax Act, and the amount thereof shall be  
10 applied by the Department against any tax or penalty due or to  
11 become due under this Act or under the Cigarette Use Tax Act  
12 from such assignee.

13 As to any claim filed hereunder with the Department on and  
14 after each January 1 and July 1, no amount of tax or penalty  
15 erroneously paid (either in total or partial liquidation of a  
16 tax or penalty under this Act) more than 3 years prior to such  
17 January 1 and July 1, respectively, shall be credited or  
18 refunded, except that if both the Department and the taxpayer  
19 have agreed to an extension of time to issue a notice of tax  
20 liability under this Act, the claim may be filed at any time  
21 prior to the expiration of the period agreed upon.

22 If the Department approves a claim for stamps affixed to a  
23 product returned to a manufacturer or for replacement of  
24 stamps, the credit memorandum shall not exceed the face value  
25 of stamps originally affixed, and replacement stamps shall be  
26 issued only in an amount equal to the value of the stamps

1 previously affixed. Higher denomination stamps shall not be  
2 issued as replacements for lower value stamps. Distributors  
3 must prove the face value of the stamps which have been  
4 destroyed or returned to manufacturers when filing claims.

5 Any credit or refund that is allowed under this Act shall  
6 bear interest at the rate and in the manner set forth in the  
7 Uniform Penalty and Interest Act.

8 In case the Department determines that the claimant is  
9 entitled to a refund, such refund shall be made only from the  
10 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
11 available for that purpose. If it appears unlikely that the  
12 amount available ~~appropriated~~ would permit everyone having a  
13 claim allowed ~~during the period covered by such appropriation~~  
14 to elect to receive a cash refund, the Department, by rule or  
15 regulation, shall provide for the payment of refunds in  
16 hardship cases and shall define what types of cases qualify as  
17 hardship cases.

18 If the Department approves a claim for the physical  
19 replacement of cigarette tax stamps, the Department (subject to  
20 the same limitations as those provided for hereinbefore in this  
21 Section) may issue an assignable credit memorandum or refund to  
22 the claimant or to the claimant's legal representative.

23 The provisions of Sections 6a, 6b and 6c of the Retailers'  
24 Occupation Tax Act which are not inconsistent with this Act,  
25 shall apply, as far as practicable, to the subject matter of  
26 this Act to the same extent as if such provisions were included

1 herein.

2 (Source: P.A. 90-491, eff. 1-1-98.)

3 Section 40. The Cigarette Use Tax Act is amended by  
4 changing Section 14a as follows:

5 (35 ILCS 135/14a) (from Ch. 120, par. 453.44a)

6 Sec. 14a. If it appears, after claim therefor filed with  
7 the Department, that an amount of tax or penalty has been paid  
8 which was not due under this Act, whether as the result of a  
9 mistake of fact or an error of law, except as hereinafter  
10 provided, then the Department shall issue a credit memorandum  
11 or refund to the person who made the erroneous payment or, if  
12 that person has died or become a person under legal disability,  
13 to his or her legal representative, as such.

14 If it is determined that the Department should issue a  
15 credit or refund under this Act, the Department may first apply  
16 the amount thereof against any amount of tax or penalty due  
17 under this Act or under the Cigarette Tax Act from the person  
18 entitled to such credit or refund. For this purpose, if  
19 proceedings are pending to determine whether or not any tax or  
20 penalty is due under this Act or under the Cigarette Tax Act  
21 from such person, the Department may withhold issuance of the  
22 credit or refund pending the final disposition of such  
23 proceedings and may apply such credit or refund against any  
24 amount found to be due to the Department under this Act or

1 under the Cigarette Tax Act as a result of such proceedings.  
2 The balance, if any, of the credit or refund shall be issued to  
3 the person entitled thereto.

4 If no tax or penalty is due and no proceeding is pending to  
5 determine whether such taxpayer is indebted to the Department  
6 for tax or penalty, the credit memorandum or refund shall be  
7 issued to the claimant; or (in the case of a credit memorandum)  
8 may be assigned and set over by the lawful holder thereof,  
9 subject to reasonable rules of the Department, to any other  
10 person who is subject to this Act or the Cigarette Tax Act, and  
11 the amount thereof shall be applied by the Department against  
12 any tax or penalty due or to become due under this Act or under  
13 the Cigarette Tax Act from such assignee.

14 As to any claim filed hereunder with the Department on and  
15 after each January 1 and July 1, no amount of tax or penalty  
16 erroneously paid (either in total or partial liquidation of a  
17 tax or penalty under this Act) more than 3 years prior to such  
18 January 1 and July 1, respectively, shall be credited or  
19 refunded, except that if both the Department and the taxpayer  
20 have agreed to an extension of time to issue a notice of tax  
21 liability under this Act, the claim may be filed at any time  
22 prior to the expiration of the period agreed upon.

23 In case the Department determines that the claimant is  
24 entitled to a refund, such refund shall be made only from the  
25 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
26 available for that purpose. If it appears unlikely that the

1 amount available ~~appropriated~~ would permit everyone having a  
2 claim allowed ~~during the period covered by such appropriation~~  
3 to elect to receive a cash refund, the Department, by rule or  
4 regulation, shall provide for the payment of refunds in  
5 hardship cases and shall define what types of cases qualify as  
6 hardship cases.

7 If the Department approves a claim for the physical  
8 replacement of cigarette tax stamps, the Department (subject to  
9 the same limitations as those provided for hereinbefore in this  
10 Section) may issue an assignable credit memorandum or refund to  
11 the claimant or to the claimant's legal representative.

12 Any credit or refund that is allowed under this Act shall  
13 bear interest at the rate and in the manner set forth in the  
14 Uniform Penalty and Interest Act.

15 The provisions of Sections 6a, 6b and 6c of the "Retailers'  
16 Occupation Tax Act", approved June 28, 1933, as amended, in  
17 effect on the effective date of this amendatory Act, as  
18 subsequently amended, which are not inconsistent with this Act,  
19 shall apply, as far as practicable, to the subject matter of  
20 this Act to the same extent as if such provisions were included  
21 herein.

22 (Source: P.A. 90-491, eff. 1-1-98.)

23 Section 45. The Coin-Operated Amusement Device and  
24 Redemption Machine Tax Act is amended by changing Section 2 as  
25 follows:

1 (35 ILCS 510/2) (from Ch. 120, par. 481b.2)

2 Sec. 2. (a) Any person, firm, limited liability company, or  
3 corporation which displays any device described in Section 1,  
4 to be played or operated by the public at any place owned or  
5 leased by any such person, firm, limited liability company, or  
6 corporation, shall before he displays such device, file in the  
7 Office of the Department of Revenue a form containing  
8 information regarding such device, setting forth his name and  
9 address, with a brief description of the device to be displayed  
10 and the premises where such device will be located, together  
11 with such other relevant data as the Department of Revenue may  
12 require. Such form shall be accompanied by the required  
13 privilege tax for each device. Such privilege tax shall be paid  
14 to the Department of Revenue of the State of Illinois and all  
15 monies received by the Department of Revenue under this Act  
16 shall be paid into the General Revenue Fund in the State  
17 Treasury. The Department of Revenue shall supply and deliver to  
18 the person, firm, limited liability company, or corporation  
19 which displays any device described in Section 1, charges  
20 prepaid and without additional cost, one privilege tax decal  
21 for each such device on which the tax has been paid, stating  
22 the year for which issued. Such privilege tax decal shall  
23 thereupon be securely affixed to such device.

24 (b) If an amount of tax, penalty, or interest has been paid  
25 in error to the Department, the taxpayer may file a claim for

1 credit or refund with the Department. If it is determined that  
2 the Department must issue a credit or refund under this Act,  
3 the Department may first apply the amount of the credit or  
4 refund due against any amount of tax, penalty, or interest due  
5 under this Act from the taxpayer entitled to the credit or  
6 refund. If proceedings are pending to determine if any tax,  
7 penalty, or interest is due under this Act from the taxpayer,  
8 the Department may withhold issuance of the credit or refund  
9 pending the final disposition of those proceedings and may  
10 apply that credit or refund against any amount determined to be  
11 due to the Department as a result of those proceedings. The  
12 balance, if any, of the credit or refund shall be paid to the  
13 taxpayer.

14 If no tax, penalty, or interest is due and no proceedings  
15 are pending to determine whether the taxpayer is indebted to  
16 the Department for tax, penalty, or interest, the credit  
17 memorandum or refund shall be issued to the taxpayer; or, the  
18 credit memorandum may be assigned by the taxpayer, subject to  
19 reasonable rules of the Department, to any other person who is  
20 subject to this Act, and the amount of the credit memorandum by  
21 the Department against any tax, penalty, or interest due or to  
22 become due under this Act from the assignee.

23 For any claim for credit or refund filed with the  
24 Department on or after each July 1, no amount erroneously paid  
25 more than 3 years before that July 1, shall be credited or  
26 refunded.

1           A claim for credit or refund shall be filed on a form  
2 provided by the Department. As soon as practicable after any  
3 claim for credit or refund is filed, the Department shall  
4 determine the amount of credit or refund to which the claimant  
5 is entitled and shall notify the claimant of that  
6 determination.

7           A claim for credit or refund shall be filed with the  
8 Department on the date it is received by the Department. Upon  
9 receipt of any claim for credit or refund filed under this  
10 Section, an officer or employee of the Department, authorized  
11 by the Director of Revenue to acknowledge receipt of such  
12 claims on behalf of the Department, shall deliver or mail to  
13 the claimant or his duly authorized agent, a written receipt,  
14 acknowledging that the claim has been filed with the  
15 Department, describing the claim in sufficient detail to  
16 identify it, and stating the date on which the claim was  
17 received by the Department. The written receipt shall be prima  
18 facie evidence that the Department received the claim described  
19 in the receipt and shall be prima facie evidence of the date  
20 when such claim was received by the Department. In the absence  
21 of a written receipt, the records of the Department as to  
22 whether a claim was received, or when the claim was received by  
23 the Department, shall be deemed to be prima facie correct in  
24 the event of any dispute between the claimant, or his legal  
25 representative, and the Department on these issues.

26           Any credit or refund that is allowed under this Article

1 shall bear interest at the rate and in the manner specified in  
2 the Uniform Penalty and Interest Act.

3 If the Department determines that the claimant is entitled  
4 to a refund, the refund shall be made only from the Sales and  
5 Excise Tax Refund Fund ~~an appropriation to the Department~~ for  
6 that purpose. If the amount available ~~appropriated~~ is  
7 insufficient to pay claimants electing to receive a cash  
8 refund, the Department by rule or regulation shall first  
9 provide for the payment of refunds in hardship cases as defined  
10 by the Department.

11 (Source: P.A. 93-32, eff. 7-1-03.)

12 Section 50. The Messages Tax Act is amended by changing  
13 Section 6 as follows:

14 (35 ILCS 610/6) (from Ch. 120, par. 467.6)

15 Sec. 6. If it appears, after claim therefor filed with the  
16 Department, that an amount of tax or penalty or interest has  
17 been paid which was not due under this Act, whether as the  
18 result of a mistake of fact or an error of law, except as  
19 hereinafter provided, then the Department shall issue a credit  
20 memorandum or refund to the person who made the erroneous  
21 payment or, if that person has died or become a person under  
22 legal disability, to his or her legal representative, as such.

23 If it is determined that the Department should issue a  
24 credit or refund under this Act, the Department may first apply

1 the amount thereof against any amount of tax or penalty or  
2 interest due hereunder from the person entitled to such credit  
3 or refund. For this purpose, if proceedings are pending to  
4 determine whether or not any tax or penalty or interest is due  
5 under this Act from such person, the Department may withhold  
6 issuance of the credit or refund pending the final disposition  
7 of such proceedings and may apply such credit or refund against  
8 any amount found to be due to the Department as a result of  
9 such proceedings. The balance, if any, of the credit or refund  
10 shall be issued to the person entitled thereto.

11 If no tax or penalty or interest is due and no proceeding  
12 is pending to determine whether such person is indebted to the  
13 Department for tax or penalty or interest, the credit  
14 memorandum or refund shall be issued to the claimant; or (in  
15 the case of a credit memorandum) the credit memorandum may be  
16 assigned and set over by the lawful holder thereof, subject to  
17 reasonable rules of the Department, to any other person who is  
18 subject to this Act, and the amount thereof shall be applied by  
19 the Department against any tax or penalty or interest due or to  
20 become due under this Act from such assignee.

21 As to any claim for credit or refund filed with the  
22 Department on or after each January 1 and July 1, no amounts  
23 erroneously paid more than 3 years prior to such January 1 and  
24 July 1, respectively, shall be credited or refunded, except  
25 that if both the Department and the taxpayer have agreed to an  
26 extension of time to issue a notice of tax liability under this

1 Act, the claim may be filed at any time prior to the expiration  
2 of the period agreed upon.

3 Claims for credit or refund shall be filed upon forms  
4 provided by the Department. As soon as practicable after any  
5 claim for credit or refund is filed, the Department shall  
6 examine the same and determine the amount of credit or refund  
7 to which the claimant is entitled and shall notify the claimant  
8 of such determination, which amount shall be prima facie  
9 correct.

10 Any credit or refund that is allowed under this Act shall  
11 bear interest at the rate and in the manner specified in the  
12 Uniform Penalty and Interest Act.

13 In case the Department determines that the claimant is  
14 entitled to a refund, such refund shall be made only from the  
15 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
16 available for that purpose. If it appears unlikely that the  
17 amount available ~~appropriated~~ would permit everyone having a  
18 claim allowed ~~during the period covered by such appropriation~~  
19 to elect to receive a cash refund, the Department, by rule or  
20 regulation, shall provide for the payment of refunds in  
21 hardship cases and shall define what types of cases qualify as  
22 hardship cases.

23 (Source: P.A. 90-491, eff. 1-1-98.)

24 Section 55. The Gas Revenue Tax Act is amended by changing  
25 Section 6 as follows:

1 (35 ILCS 615/6) (from Ch. 120, par. 467.21)

2 Sec. 6. If it appears, after claim therefor filed with the  
3 Department, that an amount of tax or penalty or interest has  
4 been paid which was not due under this Act, whether as the  
5 result of a mistake of fact or an error of law, except as  
6 hereinafter provided, then the Department shall issue a credit  
7 memorandum or refund to the person who made the erroneous  
8 payment or, if that person has died or become a person under  
9 legal disability, to his or her legal representative, as such.

10 If it is determined that the Department should issue a  
11 credit or refund under this Act, the Department may first apply  
12 the amount thereof against any amount of tax or penalty or  
13 interest due hereunder from the person entitled to such credit  
14 or refund. For this purpose, if proceedings are pending to  
15 determine whether or not any tax or penalty or interest is due  
16 under this Act from such person, the Department may withhold  
17 issuance of the credit or refund pending the final disposition  
18 of such proceedings and may apply such credit or refund against  
19 any amount found to be due to the Department as a result of  
20 such proceedings. The balance, if any, of the credit or refund  
21 shall be issued to the person entitled thereto.

22 If no tax or penalty or interest is due and no proceeding  
23 is pending to determine whether such person is indebted to the  
24 Department for tax or penalty or interest, the credit  
25 memorandum or refund shall be issued to the claimant; or (in

1 the case of a credit memorandum) the credit memorandum may be  
2 assigned and set over by the lawful holder thereof, subject to  
3 reasonable rules of the Department, to any other person who is  
4 subject to this Act, and the amount thereof shall be applied by  
5 the Department against any tax or penalty or interest due or to  
6 become due under this Act from such assignee.

7 As to any claim for credit or refund filed with the  
8 Department on or after each January 1 and July 1, no amounts  
9 erroneously paid more than 3 years prior to such January 1 and  
10 July 1, respectively, shall be credited or refunded, except  
11 that if both the Department and the taxpayer have agreed to an  
12 extension of time to issue a notice of tax liability under this  
13 Act, the claim may be filed at any time prior to the expiration  
14 of the period agreed upon.

15 Claims for credit or refund shall be filed upon forms  
16 provided by the Department. As soon as practicable after any  
17 claim for credit or refund is filed, the Department shall  
18 examine the same and determine the amount of credit or refund  
19 to which the claimant is entitled and shall notify the claimant  
20 of such determination, which amount shall be prima facie  
21 correct.

22 Any credit or refund that is allowed under this Act shall  
23 bear interest at the rate and in the manner specified in the  
24 Uniform Penalty and Interest Act.

25 In case the Department determines that the claimant is  
26 entitled to a refund, such refund shall be made only from the

1 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
2 available for that purpose. If it appears unlikely that the  
3 amount available ~~appropriated~~ would permit everyone having a  
4 claim allowed ~~during the period covered by such appropriation~~  
5 to elect to receive a cash refund, the Department, by rule or  
6 regulation, shall provide for the payment of refunds in  
7 hardship cases and shall define what types of cases qualify as  
8 hardship cases.

9 (Source: P.A. 90-491, eff. 1-1-98.)

10 Section 60. The Public Utilities Revenue Act is amended by  
11 changing Section 6 as follows:

12 (35 ILCS 620/6) (from Ch. 120, par. 473)

13 Sec. 6. If it appears, after claim therefor filed with the  
14 Department, that an amount of tax or penalty or interest has  
15 been paid which was not due under this Act, whether as the  
16 result of a mistake of fact or an error of law, except as  
17 hereinafter provided, then the Department shall issue a credit  
18 memorandum or refund to the person who made the erroneous  
19 payment or, if that person has died or become a person under  
20 legal disability, to his or her legal representative, as such.

21 If it is determined that the Department should issue a  
22 credit or refund under this Act, the Department may first apply  
23 the amount thereof against any amount of tax or penalty or  
24 interest due hereunder from the person entitled to such credit

1 or refund. Any credit memorandum issued under the Electricity  
2 Excise Tax Law may be applied against any liability incurred  
3 under the tax previously imposed by Section 2 of this Act. For  
4 this purpose, if proceedings are pending to determine whether  
5 or not any tax or penalty or interest is due under this Act  
6 from such person, the Department may withhold issuance of the  
7 credit or refund pending the final disposition of such  
8 proceedings and may apply such credit or refund against any  
9 amount found to be due to the Department as a result of such  
10 proceedings. The balance, if any, of the credit or refund shall  
11 be issued to the person entitled thereto.

12 If no tax or penalty or interest is due and no proceeding  
13 is pending to determine whether such person is indebted to the  
14 Department for tax or penalty or interest, the credit  
15 memorandum or refund shall be issued to the claimant; or (in  
16 the case of a credit memorandum) the credit memorandum may be  
17 assigned and set over by the lawful holder thereof, subject to  
18 reasonable rules of the Department, to any other person who is  
19 subject to this Act, and the amount thereof shall be applied by  
20 the Department against any tax or penalty or interest due or to  
21 become due under this Act from such assignee.

22 As to any claim for credit or refund filed with the  
23 Department on or after each January 1 and July 1, no amounts  
24 erroneously paid more than 3 years prior to such January 1 and  
25 July 1, respectively, shall be credited or refunded, except  
26 that if both the Department and the taxpayer have agreed to an

1 extension of time to issue a notice of tax liability under this  
2 Act, the claim may be filed at any time prior to the expiration  
3 of the period agreed upon.

4 Claims for credit or refund shall be filed upon forms  
5 provided by the Department. As soon as practicable after any  
6 claim for credit or refund is filed, the Department shall  
7 examine the same and determine the amount of credit or refund  
8 to which the claimant is entitled and shall notify the claimant  
9 of such determination, which amount shall be prima facie  
10 correct.

11 Any credit or refund that is allowed under this Act shall  
12 bear interest at the rate and in the manner specified in the  
13 Uniform Penalty and Interest Act.

14 In case the Department determines that the claimant is  
15 entitled to a refund, such refund shall be made only from the  
16 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
17 available for that purpose. If it appears unlikely that the  
18 amount available ~~appropriated~~ would permit everyone having a  
19 claim allowed ~~during the period covered by such appropriation~~  
20 to elect to receive a cash refund, the Department, by rule or  
21 regulation, shall provide for the payment of refunds in  
22 hardship cases and shall define what types of cases qualify as  
23 hardship cases.

24 (Source: P.A. 90-491, eff. 1-1-98; 90-624, eff. 7-10-98.)

25 Section 65. The Water Company Invested Capital Tax Act is

1 amended by changing Section 6 as follows:

2 (35 ILCS 625/6) (from Ch. 120, par. 1416)

3 Sec. 6. If it appears, after claim therefor filed with the  
4 Department, that an amount of tax or penalty or interest has  
5 been paid which was not due under this Act, whether as the  
6 result of a mistake of fact or an error of law, except as  
7 hereinafter provided, then the Department shall issue a credit  
8 memorandum or refund to the person who made the erroneous  
9 payment or, if that person has died or become incompetent, to  
10 his legal representative, as such.

11 If it is determined that the Department should issue a  
12 credit or refund under this Act, the Department may first apply  
13 the amount thereof against any amount of tax or penalty or  
14 interest due hereunder from the person entitled to such credit  
15 or refund. For this purpose, if proceedings are pending to  
16 determine whether or not any tax or penalty or interest is due  
17 under this Act from such person, the Department may withhold  
18 issuance of the credit or refund pending the final disposition  
19 of such proceedings and may apply such credit or refund against  
20 any amount found to be due to the Department as a result of  
21 such proceedings. The balance, if any, of the credit or refund  
22 shall be issued to the person entitled thereto.

23 If no tax or penalty or interest is due and no proceeding  
24 is pending to determine whether such person is indebted to the  
25 Department for tax or penalty or interest, the credit

1 memorandum or refund shall be issued to the claimant; or (in  
2 the case of a credit memorandum) the credit memorandum may be  
3 assigned and set over by the lawful holder thereof, subject to  
4 reasonable rules of the Department, to any other person who is  
5 subject to this Act, and the amount thereof shall be applied by  
6 the Department against any tax or penalty or interest due or to  
7 become due under this Act from such assignee.

8 As to any claim for credit or refund filed with the  
9 Department on or after each January 1 and July 1, no amounts  
10 erroneously paid more than 3 years prior to such January 1 and  
11 July 1, respectively, shall be credited or refunded, except  
12 that if both the Department and the taxpayer have agreed to an  
13 extension of time to issue a notice of tax liability under this  
14 Act, the claim may be filed at any time prior to the expiration  
15 of the period agreed upon.

16 Claims for credit or refund shall be filed upon forms  
17 provided by the Department. As soon as practicable after any  
18 claim for credit or refund is filed, the Department shall  
19 examine the same and determine the amount of credit or refund  
20 to which the claimant is entitled and shall notify the claimant  
21 of such determination, which amount shall be prima facie  
22 correct.

23 Any credit or refund that is allowed under this Section  
24 shall bear interest at the rate and in the manner specified in  
25 the Uniform Penalty and Interest Act.

26 In case the Department determines that the claimant is

1 entitled to a refund, such refund shall be made only from the  
2 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
3 available for that purpose. If it appears unlikely that the  
4 amount available ~~appropriated~~ would permit everyone having a  
5 claim allowed ~~during the period covered by such appropriation~~  
6 to elect to receive a cash refund, the Department, by rule or  
7 regulation, shall provide for the payment of refunds in  
8 hardship cases and shall define what types of cases qualify as  
9 hardship cases.

10 (Source: P.A. 90-491, eff. 1-1-98.)

11 Section 70. The Telecommunications Excise Tax Act is  
12 amended by changing Section 10 as follows:

13 (35 ILCS 630/10) (from Ch. 120, par. 2010)

14 Sec. 10. If it shall appear that an amount of tax or  
15 penalty or interest has been paid in error hereunder to the  
16 Department by a taxpayer, as distinguished from the retailer,  
17 whether such amount be paid through a mistake of fact or an  
18 error of law, such taxpayer may file a claim for credit or  
19 refund with the Department. If it shall appear that an amount  
20 of tax or penalty or interest has been paid in error to the  
21 Department hereunder by a retailer who is required or  
22 authorized to collect and remit the tax imposed by this  
23 Article, whether such amount be paid through a mistake of fact  
24 or an error of law, such retailer may file a claim for credit

1 or refund with the Department, provided that no credit or  
2 refund shall be allowed for any amount paid by any such  
3 retailer unless it shall appear that he bore the burden of such  
4 amount and did not shift the burden thereof to anyone else, or  
5 unless it shall appear that he or she or his or her legal  
6 representative has unconditionally repaid such amount to his  
7 customer (1) who bore the burden thereof and has not shifted  
8 such burden directly or indirectly in any manner whatsoever; or  
9 (2) who, if he or she shifted such burden, has repaid  
10 unconditionally such amount to his or her own customer; and (3)  
11 who is not entitled to receive any reimbursement therefor from  
12 any other source than from his retailer, nor to be relieved of  
13 such burden in any other manner whatsoever.

14 If it is determined that the Department should issue a  
15 credit or refund under this Article, the Department may first  
16 apply the amount thereof against any amount of tax or penalty  
17 or interest due hereunder from the person entitled to such  
18 credit or refund. For this purpose, if proceedings are pending  
19 to determine whether or not any tax or penalty or interest is  
20 due under this Article from such person, the Department may  
21 withhold issuance of the credit or refund pending the final  
22 disposition of such proceedings and may apply such credit or  
23 refund against any amount found to be due to the Department as  
24 a result of such proceedings. The balance, if any, of the  
25 credit or refund shall be issued to the person entitled  
26 thereto.

1           If no tax or penalty or interest is due and no proceeding  
2 is pending to determine whether such person is indebted to the  
3 Department for tax or penalty or interest, the credit  
4 memorandum or refund shall be issued to the claimant; or (in  
5 the case of a credit memorandum) the credit memorandum may be  
6 assigned and set over by the lawful holder thereof, subject to  
7 reasonable rules of the Department, to any other person who is  
8 subject to this Article, and the amount thereof shall be  
9 applied by the Department against any tax or penalty or  
10 interest due or to become due under this Article from such  
11 assignee.

12           As to any claim for credit or refund filed with the  
13 Department on or after each January 1 and July 1, no amounts  
14 erroneously paid more than three years prior to such January 1  
15 and July 1, respectively, shall be credited or refunded, except  
16 that if both the Department and the taxpayer have agreed to an  
17 extension of time to issue a notice of tax liability under this  
18 Act, the claim may be filed at any time prior to the expiration  
19 of the period agreed upon.

20           Claims for credit or refund shall be filed upon forms  
21 provided by the Department. As soon as practicable after any  
22 claim for credit or refund is filed, the Department shall  
23 examine the same and determine the amount of credit or refund  
24 to which the claimant is entitled and shall notify the claimant  
25 of such determination, which amount shall be prima facie  
26 correct.

1           A claim for credit or refund shall be considered to have  
2           been filed with the Department on the date upon which it is  
3           received by the Department. Upon receipt of any claim for  
4           credit or refund filed under this Article, any officer or  
5           employee of the Department, authorized in writing by the  
6           Director of Revenue to acknowledge receipt of such claims on  
7           behalf of the Department, shall execute on behalf of the  
8           Department, and shall deliver or mail to the claimant or his  
9           duly authorized agent, a written receipt, acknowledging that  
10          the claim has been filed with the Department, describing the  
11          claim in sufficient detail to identify it and stating the date  
12          upon which the claim was received by the Department. Such  
13          written receipt shall be prima facie evidence that the  
14          Department received the claim described in such receipt and  
15          shall be prima facie evidence of the date when such claim was  
16          received by the Department. In the absence of such a written  
17          receipt, the records of the Department as to when the claim was  
18          received by the Department, or as to whether or not the claim  
19          was received at all by the Department, shall be deemed to be  
20          prima facie correct upon these questions in the event of any  
21          dispute between the claimant (or his or her legal  
22          representative) and the Department concerning these questions.

23           Any credit or refund that is allowed under this Article  
24           shall bear interest at the rate and in the manner specified in  
25           the Uniform Penalty and Interest Act.

26           In case the Department determines that the claimant is

1 entitled to a refund, such refund shall be made only from the  
2 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
3 available for that purpose. If it appears unlikely that the  
4 amount available ~~appropriated~~ would permit everyone having a  
5 claim allowed ~~during the period covered by such appropriation~~  
6 to elect to receive a cash refund, the Department by rule or  
7 regulation shall provide for the payment of refunds in hardship  
8 cases and shall define what types of cases qualify as hardship  
9 cases.

10 If a retailer who has failed to pay tax on gross charges  
11 for telecommunications is required by the Department to pay  
12 such tax, such retailer, without filing any formal claim with  
13 the Department, shall be allowed to take credit against such  
14 tax liability to the extent, if any, to which such retailer has  
15 paid the tax to its vendor of the telecommunications which such  
16 retailer purchased and used for resale, and no penalty or  
17 interest shall be charged to such retailer on the amount of  
18 such credit. However, when such credit is allowed to the  
19 retailer by the Department, the vendor is precluded from  
20 refunding any of the tax to the retailer and filing a claim for  
21 credit or refund with respect thereto with the Department. The  
22 provisions of this Section added by this amendatory Act of 1988  
23 shall be applied retroactively, regardless of the date of the  
24 transaction.

25 (Source: P.A. 90-491, eff. 1-1-98.)

1           Section 75. The Liquor Control Act of 1934 is amended by  
2 changing Section 8-3 as follows:

3           (235 ILCS 5/8-3) (from Ch. 43, par. 159a)

4           Sec. 8-3. If it appears, after claim therefor filed with  
5 the Department, that an amount of tax or penalty or interest  
6 has been paid which was not due under this Article, whether as  
7 the result of a mistake of fact or an error of law, except as  
8 hereinafter provided, then the Department shall issue a credit  
9 memorandum or refund to the person who made the erroneous  
10 payment or, if that person died or became a person under legal  
11 disability, to his or her legal representative, as such.

12           If it is determined that the Department should issue a  
13 credit or refund under this Article, the Department may first  
14 apply the amount thereof against any amount of tax or penalty  
15 or interest due hereunder from the person entitled to such  
16 credit or refund. For this purpose, if proceedings are pending  
17 to determine whether or not any tax or penalty or interest is  
18 due under this Article from such person, the Department may  
19 withhold issuance of the credit or refund pending the final  
20 disposition of such proceedings and may apply such credit or  
21 refund against any amount found to be due to the Department as  
22 a result of such proceedings. The balance, if any, of the  
23 credit or refund shall be issued to the person entitled  
24 thereto.

25           If no tax or penalty or interest is due and no proceeding

1 is pending to determine whether such taxpayer is indebted to  
2 the Department for tax or penalty or interest the credit  
3 memorandum or refund shall be issued to the claimant; or (in  
4 the case of a credit memorandum) the credit memorandum may be  
5 assigned and set over by the lawful holder thereof, subject to  
6 reasonable rules of the Department, to any other person who is  
7 subject to this Article, and the amount thereof shall be  
8 applied by the Department against any tax or penalty or  
9 interest due or to become due under this Article from such  
10 assignee.

11 As to any claim filed hereunder with the Department on and  
12 after each January 1 and July 1, no amount of tax or penalty or  
13 interest, erroneously paid (either in total or partial  
14 liquidation of a tax or penalty or interest under this Article)  
15 more than 3 years prior to such January 1 and July 1,  
16 respectively, shall be credited or refunded.

17 Any credit or refund that is allowed under this Act shall  
18 bear interest at the rate and in the manner specified in the  
19 Uniform Penalty and Interest Act.

20 In case the Department determines that the claimant is  
21 entitled to a refund, such refund shall be made only from the  
22 Sales and Excise Tax Refund Fund ~~such appropriation~~ as may be  
23 available for that purpose. If it appears unlikely that the  
24 amount available ~~appropriated~~ would permit everyone having a  
25 claim allowed ~~during the period covered by such appropriation~~  
26 to elect to receive a cash refund, the Department, by rule or

1 regulation, shall provide for the payment of refunds in  
2 hardship cases and shall define what types of cases qualify as  
3 hardship cases.

4 (Source: P.A. 87-205.)

5 Section 99. Effective date. This Act takes effect on July  
6 1, 2016.

1	INDEX	
2	Statutes amended in order of appearance	
3	30 ILCS 105/5.875 new	
4	30 ILCS 105/6z-101 new	
5	35 ILCS 105/19	from Ch. 120, par. 439.19
6	35 ILCS 110/17	from Ch. 120, par. 439.47
7	35 ILCS 115/17	from Ch. 120, par. 439.117
8	35 ILCS 120/6	from Ch. 120, par. 445
9	35 ILCS 128/1-55	
10	35 ILCS 130/9d	from Ch. 120, par. 453.9d
11	35 ILCS 135/14a	from Ch. 120, par. 453.44a
12	35 ILCS 510/2	from Ch. 120, par. 481b.2
13	35 ILCS 610/6	from Ch. 120, par. 467.6
14	35 ILCS 615/6	from Ch. 120, par. 467.21
15	35 ILCS 620/6	from Ch. 120, par. 473
16	35 ILCS 625/6	from Ch. 120, par. 1416
17	35 ILCS 630/10	from Ch. 120, par. 2010
18	235 ILCS 5/8-3	from Ch. 43, par. 159a